INFORMAL RESPONSE FAX 703.746.3239 31 pages transmitted

In The United States Patent and Trademark Office
Appn. Number 09/902,333
Appn. Filed: 07/10/2001

Title: A Method and system for real-time reporting of team-member contributions to team achievement

Examining Supervisor: Xuan Thai
Examiner: Binh-An D.Nguyen
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Response to Final Action Dated 3/22/2005
Assistant Commissioner for Patents
Alexandria, VA 22313-1450

**Examining Supervisor:**
**Applicant respectfully requests the following actions:**
**1)withdraw the determination of FINAL based on remarks in PART 1 of this response and,**
**2)allow Applicant's Amendment C herein based on remarks contained therein, and.**
**3)if above is denied, Applicant requests that the Examining Supervisor reconsider Applicant's Amendment B with existing claims 26-37 based on the remarks in PART 2 of this response and,**
**4)if above is denied, Applicant requests that Examining Supervisor place existing claims in better form for Appeal.**

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PART 1

The Applicant respectfully disagrees with the finding that the Applicant's amendment necessitated the new ground(s) of rejection presented in the FINAL Office Action. The Applicant's amendment included independent claims 26 and 32 that were jointly written by the Applicant and Examiner pursuant to MPEP 707.07(j), during the phone interview and later confirmed as being in form for allowance by the Examiner after reviewing an informal written response by the Applicant pursuant to submitting the formal response. The Applicant's formal response to the Office Action was denied when the Examining Supervisor disallowed said claims appearing in the formal response under 35 U.S.C. 101.

This new ground for denial was imposed upon the Applicant. The Office Action instructed the Applicant to address all questions to the Examiner who unknown to the Applicant, was not authorized to negotiate with the Applicant. **The Applicant was denied his right to negotiate with an authorized representative of the Patent Office in the preparation of his response to the non-final Office Action.**

The other "new" ground was the combination of two prior art references that formed the basis for rejection under 35 U.S.C. 103(a). However, in the FINAL Action **the Examiner did not show anything in the prior art references that would suggest the advantage to be derived from combining their teachings as required by the courts**, In re Sernaker, 217 U.S.P.Q 1, 6 (C.A.F.C 1983):

> "Prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings".

Furthermore, the Board stated in Ex parte Levengood, 28 U.S.P.Q2d 1300 (P.T.O.B.A.&I 1993):

"Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden of establishing a *prima facie* case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of ordinary skill in the art, that 'would lead' that individual 'to combine the relevant teachings of the references.'—Accordingly, an examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done."

The Applicant has provided evidence of the motivating force which would impel one skilled in the art to NOT DO what the Applicant has done. For a more detailed presentation of these case findings see the evidence presented in

Applicant's Amendment B p.32-33, and this response's Amendment C.

Furthermore, the Applicant asserts that the Examiner's findings were based on only a part of the total response by the applicant. October 22, 2004 Amendment upon which the Examiner's findings were based, was supplemental to Applicant's Amendment B submitted a month earlier. On the Examining Supervisor's advice, the Applicant put the response in correct form by Supplemental response that added the new identifier requirements for the new computer imaging process. The supplemental response only included the changes to meet these requirements and was intended by its demarcation to be supplemental to Amendment B filed earlier but not acted upon by the Examiner. This material should have been considered by the Examiner in his response. **As a result, the Applicant was denied his right to respond to Examiner's non-final Office Action.**

**The Applicant respectfully asserts that the determination of FINAL was improper and requests that the determination of FINAL be withdrawn and Amendment C herein be accepted as response to the revised NON-FINAL Office Action.**

In The United States Patent and Trademark Office
Appn. Number: 09/902,333
Appn. Filed: 07/10/2001
Applicxant: Philip J. Campaigne

Title: A Method and system for real-time reporting of team-member contributions to team achievement

Examining Supervisor: Xuan Thai
Examiner: Binh-An D. Nguyen

Amendment C
Assistant Commissioner for Patents
Alexandria, VA 22313-1450

In response to the prior Office Action, please amend the above application as follows:

**Title:**
**Original title (CANCELED):**
**(NEW)** A Method and System for Collective Reporting of Team-member contributions to Team Achievement.